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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 ARTHUR LEE GARRISON,

10 Plaintiff,

11 vs.

12 NEVADA DEPARTMENT OF
13 CORRECTIONS, *et al.*,

14 Defendants.

3:17-cv-00391-MMD-WGC

ORDER

Re: ECF No. 52

15 Before the court is Plaintiff's Motion for Appointment of Counsel (ECF No. 52).¹ Defendants
16 have opposed Plaintiff's motion (ECF No. 53), and Plaintiff has replied (ECF No. 54).

17 Plaintiff contends in his latest motion that he has "serious problems writing and understanding
18 reading on a lot of things, such as legal terms." (ECF No. 52 at 5.) Plaintiff further claims he has a
19 subpar educational background and cannot litigate on his own behalf, even with the help of inmate law
20 clerks.

21 As discussed in this court's prior orders denying Plaintiff's motions for appointment of counsel
22 and/or guardian ad litem (ECF Nos. 18, 21), a litigant in a civil rights action does not have a Sixth
23 Amendment right to appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). In
24 very limited circumstances, federal courts are empowered to request an attorney to represent an indigent
25 civil litigant. The circumstances in which a court will grant such a request, however, are exceedingly
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28 ¹This is actually Plaintiff's third request for appointment of counsel. *See*, ECF No. 6, denied on 7/23/18
in ECF No. 18; and ECF No. 20, denied on 8/7/18 in ECF No. 21.

1 rare, and the court will grant the request under only extraordinary circumstances. *United States v. 30.64*
2 *Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th
3 Cir. 1986).

4 A finding of such exceptional or extraordinary circumstances requires that the court evaluate both
5 the likelihood of Plaintiff's success on the merits and the *pro se* litigant's ability to articulate his claims
6 in light of the complexity of the legal issues involved. Neither factor is controlling; both must be viewed
7 together in making the finding. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991), *citing Wilborn*,
8 *supra*, 789 F.2d at 1331. Plaintiff has shown an ability to articulate his claims, because he has submitted
9 at least three (3) amended pleadings, the most recent of which survived screening . (ECF Nos. 34, 35.)

10 In the matter of a case's complexity, the Ninth Circuit in *Wilborn* noted that:

11 If all that was required to establish successfully the complexity of the
12 relevant issues was a demonstration of the need for development of
13 further facts, practically all cases would involve complex legal issues.
14 Thus, although *Wilborn* may have found it difficult to articulate his
claims *pro se*, he has neither demonstrated a likelihood of success on the
merits nor shown that the complexity of the issues involved was
sufficient to require designation of counsel.

15 The Ninth Circuit therefore affirmed the District Court's exercise of discretion in denying the
16 request for appointment of counsel because the Plaintiff failed to establish the case was complex as to
17 facts or law. 789 F.2d at 1331.

18 Similarly, with respect to the *Terrell* factors, Plaintiff has again failed to convince the court of
19 the likelihood of success on the merits of his claims.

20 While any *pro se* inmate such as Mr. Garrison would likely benefit from services of counsel, that
21 is not the standard this court must employ in determining whether counsel should be appointed.
22 *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir. 1990).

23 The United States Supreme Court has generally stated that although Congress provided relief for
24 violation of one's civil rights under 42 U.S.C. § 1983, the right to access to the courts is only a right to
25 bring complaints to federal court and not a right to discover such claims or to litigate them effectively
26 once filed with a court. *Lewis v. Casey*, 518 U.S. 343, 354-355 (1996).

27 The court does not have the power "to make coercive appointments of counsel." *Mallard v. U. S.*
28 *Dist. Ct.*, 490 US 296, 310 (1989). Thus, the court can appoint counsel only under exceptional

1 circumstances. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) [cert den 130 S.Ct. 1282 (2010)].
2 Plaintiff has not shown that the exceptional circumstances necessary for appointment of counsel are
3 present in this case.

4 In the exercise of the court's discretion, it **DENIES** Plaintiff's Motion for Appointment of
5 Counsel (ECF No. 52).

6 **IT IS SO ORDERED.**

7 DATED: August 1, 2019.

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WILLIAM G. COBB
11 UNITED STATES MAGISTRATE JUDGE
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